



POSTAL SERVICE

39 CFR Part 241

Post Office Organization and Administration: Establishment, Classification, and Discontinuance

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: This final rule amends the provisions concerning the discontinuance of USPS®-operated retail facilities to incorporate conforming changes in Post Office™ classification and terminology.

DATES: *Effective date:* [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Jim Boldt (202) 268-6799.

SUPPLEMENTARY INFORMATION: This final rule makes minor changes to 39 CFR Part 241. Existing regulations provide that a change in the staffing of a Post Office such that it is staffed by another type of Postal Service employee is not a discontinuance. See 39 CFR 241.3(a)(1)(ii). Consistent with this provision, the final rule defines a remotely managed Post Office (RMPO) as a Post Office that offers part-time window service hours, is staffed by a Postal Service employee at the direction of a postmaster, and reports to an Administrative Post Office. The final rule also defines a part-time Post Office (PTPO) as a Post Office that offers part-time window service hours, is staffed by a Postal Service employee, and reports to a district office. In addition, the final rule replaces the term “lowest non-bargaining (EAS) employee grade” with “lowest level RMPO” in 39 CFR

241.3(a)(5)(i). This change is not substantive, because the hours of service of the lowest EAS grade for Post Offices previously in effect corresponds to window service hours offered by the lowest level RMPO. Last, the final rule no longer includes cost ascertainment grouping classifications in 39 CFR 241.1. The use of such classification systems is not needed in Part 241, in light of the introduction of RMPOs and PTPOs.

Although exempt from the notice and comment rulemaking requirements of Title 5 of the United States Code, the Postal Service hereby adopts the following changes to 39 CFR Part 241.

List of Subjects in 39 CFR Part 241

Organization and functions (government agencies), Postal Service.

Accordingly, 39 CFR Part 241 is amended as follows:

PART 241 — RETAIL ORGANIZATION AND ADMINISTRATION:

ESTABLISHMENT, CLASSIFICATION, AND DISCONTINUANCE

1. The authority citation for 39 CFR part 241 continues to read as follows:

Authority: 39 U.S.C. 101, 401, 403, 404, 410, 1001.

2. Revise § 241.1 to read as follows:

§ 241.1 Post offices.

Post Offices are established and maintained at locations deemed necessary to ensure that regular and effective postal services are available to all customers within specified geographic boundaries. A Post Office may be operated or staffed by a postmaster or by another type of postal employee at the direction of the postmaster, including when the postmaster is not physically

present. A Remotely Managed Post Office (RMPO) is a Post Office that offers part-time window service hours, is staffed by a Postal Service employee under the direction of a postmaster, and reports to an Administrative Post Office. A Part-Time Post Office (PTPO) is a Post Office that offers part-time window service hours, is staffed by a Postal Service employee, and reports to a district office. Unless otherwise specified, all references to “Post Office” include RMPOs and PTPOs.

3. In § 241.3, revise paragraph (a) to read as follows:

§ 241.3 Discontinuance of USPS-operated retail facilities.

(a) *Introduction* — (1) *Coverage*. (i) This section establishes the rules governing the Postal Service's consideration of whether an existing retail Post Office, station, or branch should be discontinued. The rules cover any proposal to:

(A) Replace a USPS-operated Post Office, station, or branch with a contractor-operated retail facility;

(B) Combine a USPS-operated Post Office, station, or branch with another USPS-operated retail facility; or

(C) Discontinue a USPS-operated Post Office, station, or branch without providing a replacement facility.

(ii) The conversion of a Post Office into, or the replacement of a Post Office with, another type of USPS-operated retail facility is not a discontinuance action subject to this section. A change in the staffing of a Post Office such that it is staffed only part-time by a postmaster, or not staffed at all by a postmaster, but

rather by another type of USPS employee, is not a discontinuance action subject to this section.

(iii) The regulations in this section are mandatory only with respect to discontinuance actions for which initial feasibility studies have been initiated on or after July 14, 2011. Unless otherwise provided by responsible personnel, the rules under §241.3 as in effect prior to July 14, 2011, shall apply to discontinuance actions for which initial feasibility studies have been initiated prior to July 14, 2011. Discontinuance actions pending as of December 1, 2011, that pertain to the conversion of a Post Office to another type of USPS-operated facility are no longer subject to these regulations.

(2) *Definitions.* As used in this section, the terms listed below are defined as follows:

(i) *“USPS-operated retail facility”* includes any Postal Service employee-operated Post Office, station, or branch, but does not include any station, branch, community Post Office, or other retail facility operated by a contractor.

(ii) *“Contractor-operated retail facility”* includes any station, branch, community Post Office, or other facility, including a private business, offering retail postal services that is operated by a contractor, and does not include any USPS-operated retail facility.

(iii) *“Closing”* means an action in which Post Office operations are permanently discontinued without providing a replacement facility in the community.

(iv) “*Consolidation*” means an action that converts a Postal Service–operated retail facility into a contractor-operated retail facility. The resulting contractor-operated retail facility reports to a Postal Service–operated retail facility.

(v) “*Discontinuance*” means either a closure or a consolidation.

(vi) A “*Remotely Managed Post Office*” (RMPO) is a Post Office that offers part-time window service hours, is staffed by a Postal Service employee at the direction of a postmaster, and reports to an Administrative Post Office. Unless otherwise specified, all references to “Post Office” include RMPOs. The classification of a Post Office as an RMPO is not a discontinuance action under this section.

(vii) A “*Part-Time Post Office*” (PTPO) is a Post Office that offers part-time window service hours, is staffed by a Postal Service employee, and reports to a district office. Unless otherwise specified, all references to “Post Office” include PTPOs. The classification of a Post Office as a PTPO is not a discontinuance action under this section.

(3) *Requirements.* A District Manager or the responsible Headquarters Vice President, or a designee of either, may initiate a feasibility study of a USPS-operated facility for possible discontinuance. Any decision to close or consolidate a USPS-operated retail facility may be effected only upon the consideration of certain factors. These include the effect on the community served; the effect on employees of the USPS-operated retail facility; compliance with government policy established by law that the Postal Service must provide a maximum

degree of effective and regular postal services to rural areas, communities, and small towns where Post Offices are not self-sustaining; the economic savings to the Postal Service; and any other factors the Postal Service determines necessary. In addition, certain mandatory procedures apply as follows:

(i) The public must be given 60 days' notice of a proposed action to enable the persons served by a USPS-operated retail facility to evaluate the proposal and provide comments.

(ii) After public comments are received and taken into account, any final determination to close or consolidate a USPS-operated retail facility must be made in writing and must include findings covering all the required considerations.

(iii) The written determination must be made available to persons served by the USPS-operated retail facility at least 60 days before the discontinuance takes effect.

(iv) Within the first 30 days after the written determination is made available, any person regularly served by a Post Office subject to discontinuance may appeal the decision to the Postal Regulatory Commission. Where persons regularly served by another type of USPS-operated retail facility subject to discontinuance file an appeal with the Postal Regulatory Commission, the General Counsel reserves the right to assert defenses, including the Commission's lack of jurisdiction over such appeals. For purposes of determining whether an appeal is filed within the 30-day period, receipt by the Commission is based on the postmark of the appeal, if sent through the mail, or on other

appropriate documentation or indicia, if sent through another lawful delivery method.

(v) The Commission may only affirm the Postal Service determination or return the matter for further consideration but may not modify the determination.

(vi) The Commission is required to make any determination subject to 39 U.S.C. 404(d)(5) within the 120 days specified by statute.

(vii) The following table summarizes the notice and appeal periods defined by statute.

Public Notice of Proposal

60-day notice

Public Notice of Final Determination

30 days for filing any appeal	Wait at least 60 days from first day after posting final determination before closing or consolidating USPS-operated retail facility.
Up to 120 days for appeal consideration and decision	

(4) *Additional requirements.* This section also includes:

(i) Rules to ensure that the community's identity as a postal address is preserved.

(ii) Rules for consideration of a proposed discontinuance and for its implementation, if approved. These rules are designed to ensure that the reasons leading to discontinuance of a particular USPS-operated retail facility are

fully articulated and disclosed at a stage that enables customer participation to make a helpful contribution toward the final decision.

(5) *Initial feasibility study.* A district manager, the responsible Headquarters vice president, or a designee of either may initiate a feasibility study of a USPS-operated retail facility's potential discontinuance, in order to assist the district manager in determining whether to proceed with a written proposal to discontinue the facility.

(i) *Permissible circumstances.* The initial feasibility study may be based upon circumstances including, but not limited to, the following:

(A) A postmaster vacancy;

(B) Emergency suspension of the USPS-operated retail facility due to cancellation of a lease or rental agreement when no suitable alternate quarters are available in the community, a fire or natural disaster, irreparable damage when no suitable alternate quarters are available in the community, challenge to the sanctity of the mail, or similar reasons;

(C) Earned workload below the minimum established level for the lowest level RMPO;

(D) Insufficient customer demand, evidenced by declining or low volume, revenue, revenue units, local business activity, or local population trends;

(E) The availability of reasonable alternate access to postal services for the community served by the USPS-operated retail facility; or

(F) The incorporation of two communities into one or other special circumstances.

(ii) *Impermissible circumstances.* The following circumstances may not be used to justify initiation of an initial feasibility study:

(A) Any claim that the continued operation of a building without handicapped modifications is inconsistent with the Architectural Barriers Act (42 U.S.C. 4151 et seq.);

(B) The absence of running water or restroom facilities;

(C) Compliance with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); or

(D) In the absence of any circumstances identified in paragraph (a)(5)(i) of this section, the operation of a small Post Office at a deficit.

(iii) *Notice to customers.* Local management must provide notification and questionnaires to customers at the USPS-operated retail facility under study. Local management may determine whether notification is appropriate through media outlets. In addition, the following customers that receive delivery service from the USPS-operated retail facility must receive notification and questionnaires by mail:

(A) Post Office Box customers at the USPS-operated retail facility under study;

(B) Customers whose delivery carrier is stationed out of the USPS-operated retail facility under study;

(C) Customers in the delivery area of the same ZIP Code as the retail facility under study, regardless of whether the delivery carriers for those

customers are stationed out of the retail facility under study or out of a nearby facility; and

(D) Customers whom the retail facility under study serves for allied delivery services such as mail pickup.

(iv) *Initial feasibility study due to emergency suspension.* Wherever possible when an initial feasibility study is to be initiated under §241.3(a)(5)(i)(B) (for example, when it is anticipated that a lease or rental agreement will be cancelled with no suitable alternate quarters available in the community), responsible personnel should initiate the initial feasibility study sufficiently in advance of the circumstance prompting the emergency suspension to allow a meaningful opportunity for public input to be taken into account. If public input cannot be sought sufficiently in advance of the end date of the lease or rental agreement, responsible personnel should endeavor, to the extent possible, to continue operation of the USPS-operated retail facility for the duration necessary to gather public input and make a more fully informed decision on whether to proceed with a discontinuance proposal. Customers formerly served by the suspended facility should receive notice under paragraph (a)(5)(iii) of this section, including by mail, to the same extent that they would have if the facility were not in suspended status at the time of the initial feasibility study, proposal, or final determination.

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